

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**VICTOR APODACA,**

**Plaintiff,**

**v.**

**No. 13-cv-0113 JB/SMV**

**STATE OF N.M. ADULT PROB. & PAROLE, et al.,**

**Defendants.**

**ORDER DENYING MOTIONS FOR APPOINTMENT OF COUNSEL**

THIS MATTER is before the Court on Plaintiff's Motions for Appointment of Counsel [Docs. 12 and 15], filed on June 24 and July 5, 2013, respectively. The Court, being fully advised in the premises, FINDS that the Motions are not well-taken and should be denied for the reasons set forth below.

United States District Courts lack the authority to appoint counsel to represent indigent prisoners in § 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). In deciding whether to request voluntary assistance of counsel, courts should consider "the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (internal quotation marks omitted). Ultimately, the burden is on the plaintiff "to convince the court that there is sufficient merit to his claim to warrant [a request for voluntary assistance] of counsel." *Hill v. Smithkline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir 2004) (internal quotation marks omitted).

The Court is not convinced that there is sufficient merit or complexity in Plaintiff's claims to warrant the Court's requesting assistance of counsel. Moreover, thus far, Plaintiff has been adequately presenting his claims.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that the Motions for Appointment of Counsel [Docs. 12 and 15] are both **DENIED**.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'S. Vidmar', is written over a horizontal line.

**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**